

House Bill 1444 (AS PASSED HOUSE AND SENATE)

By: Representative Pruett of the 144th

A BILL TO BE ENTITLED

AN ACT

To amend an Act creating the Heart of Georgia Regional Airport Authority, approved April 18, 1995 (Ga. L. 1995, p.4448), so as to provide that such authority's ability to use revenue bonds shall also include other obligations; to provide definitions; to provide for the reference to obligations throughout the Act; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act creating the Heart of Georgia Regional Airport Authority, approved April 18, 1995 (Ga. L. 1995, p.4448), is amended by revising Section 4 as follows:

"SECTION 4.

Definitions.

(a) As used in this Act, the term:

(1) 'Airport' means any area of land or structure which is or has been used or which the authority may plan to use for the landing and taking off of commercial, private, and military aircraft, including helicopters; all buildings, equipment, facilities, or other property and improvements of any kind or nature located within the bounds of any such land area or structure which are or have been used or which the authority may plan to use for terminal facilities; all facilities of any type for the accommodation of passengers, maintenance, servicing, and operation of aircraft, business offices and facilities of private businesses and governmental agencies, and the parking of automobiles; and all other activities which are or have been carried on or which may be necessary or convenient in conjunction with the landing and taking off of commercial, private, and military aircraft including all land originally acquired by the City of Eastman and Dodge County for the establishment of a county and municipal airport, and any land to be deeded to the City

of Eastman or Dodge County for airport use, including, without limitation, aviation easements, and other real or personal property.

(2) 'Authority' means the Heart of Georgia Regional Airport Authority created by this Act.

(3) 'Cost of the project' means and embraces the cost of construction; the cost of all lands, properties, rights, easements, and franchises acquired; the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction; the cost of engineering, architectural, fiscal agents', and legal expenses, and of plans and specifications, and other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expenses, and such other expenses as may be necessary or incident to the financing authorized in this Act; the cost of the acquisition or construction of any project; the cost of placing any project in operation; and the cost of condemnation of property necessary for such construction and operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the cost of the project and may be paid or reimbursed as such out of the proceeds of revenue bonds or other obligations issued under the provisions of this Act for such project.

(4) 'Other obligations' means debt obligations of the authority other than revenue bonds and includes, without limitation, long-term notes and short-term notes.

(5) 'Project' shall be deemed to mean and include the acquisition, construction, equipping, maintenance, and operation of an airport and the usual facilities related thereto.

(6) 'Revenue bonds' and 'bonds' mean revenue bonds as defined and provided for in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the 'Revenue Bond Law,' and such type of obligations may be issued by the authority as authorized under said Revenue Bond Law and any amendments thereto and, in addition, shall also mean obligations of the authority, the issuance of which are hereinafter specifically provided for in this Act.

(b) Any project shall be deemed 'self-liquidating' if, in the judgment of the authority, the revenues and earnings to be derived by the authority therefrom and from all other available sources will be sufficient to pay the costs of operating, maintaining, repairing, improving, and extending the project and to pay the principal of and interest on the revenue bonds and other obligations which may be issued to finance, in whole or in part, the cost of such project or projects."

SECTION 2.

Said Act is further amended by revising paragraphs (6) through (10) of Section 5 as follows:

“(6) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate, and manage projects, as defined in this Act, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds or other obligations of the authority or from such proceeds and any grant or contribution from the United States of America or any agency or instrumentality thereof or from the State of Georgia or any agency or instrumentality thereof;

(7) To accept loans and grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof upon such terms and conditions as the United States of America or such agency or instrumentality may require and to evidence any such loans with revenue bonds or other obligations of the authority;

(8) To accept loans and grants of money or materials or property of any kind from the State of Georgia or any agency or instrumentality or political subdivision thereof upon such terms and conditions as the State of Georgia or such agency or instrumentality or political subdivision may require and to evidence any such loans with revenue bonds or other obligations of the authority;

(9) To borrow money for any of its corporate purposes and to issue revenue bonds or other obligations payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof; and

(10) To exercise any power usually possessed by private corporations performing similar functions, including the power to make or incur long-term and short-term loans and to approve, execute, and deliver revenue bonds or other obligations to evidence such indebtedness, provided no such power is in conflict with the Constitution or general laws of this state."

SECTION 3.

Said Act is further amended by revising Section 6 as follows:

"SECTION 6.

Revenue bonds.

The authority, or any authority or body which has or which may in the future succeed to the powers, duties, and liabilities vested in the authority created by this Act, is authorized to provide by resolution for the issuance of negotiable revenue bonds or other obligations of the authority for the purpose of paying all or any part of the cost as herein defined of any one or more projects. The principal of and interest on such revenue bonds or other obligations shall be payable solely from the special fund provided in this Act for such payment. The bonds or other obligations of each issue shall be dated, shall bear interest

1 at such rate or rates per annum, payable at such time or times, shall mature at such time or
2 times not exceeding 40 years from their date or dates, shall be payable in such medium of
3 payment as to both principal and interest as may be determined by the authority, and may
4 be redeemable before maturity, at the option of the authority, at such price or prices and
5 under such terms and conditions as may be fixed by the authority in the resolution for the
6 issuance of bonds or other obligations."

7 **SECTION 4.**

8 Said Act is further amended by revising Section 7 as follows:

9 "SECTION 7.

10 Revenue bonds; form, denomination; registration; place of payment.

11 The authority shall determine the form of the bonds or other obligations, including any
12 interest coupons to be attached thereto, and shall fix the denomination or denominations
13 of the bonds or other obligations and the place or places of payment of principal and
14 interest thereon, which may be at any bank or trust company inside or outside the state.
15 The bonds may be issued in coupon or registered form, or both, as the authority may
16 determine, and provision may be made for the registration of any coupon bond or other
17 obligations as to principal alone and also as to both principal and interest."

18 **SECTION 5.**

19 Said Act is further amended by revising Section 8 as follows:

20 "SECTION 8.

21 Revenue bonds; signatures; seal.

22 In case any officer whose signature shall appear on any bonds or other obligations or whose
23 facsimile signature shall appear on any coupon shall cease to be such officer before the
24 delivery of such bonds or other obligations, such signature shall nevertheless be valid and
25 sufficient for all purposes the same as if such officer had remained in office until such
26 delivery. All such bonds or other obligations shall be signed by the chairperson of the
27 authority and the official seal of the authority shall be affixed thereto and attested by the
28 secretary of the authority and any coupons attached thereto shall bear the facsimile
29 signatures of the chairperson and the secretary of the authority. Any coupon may bear the
30 facsimile signatures of such persons and any bond or other obligation may be signed,
31 sealed, and attested on behalf of the authority by such persons as at the actual time of the

1 execution of such bonds or other obligations shall be duly authorized or hold the proper
2 office, although at the date of such bonds or other obligations such person may not have
3 been so authorized or shall not have held such office."

4 **SECTION 6.**

5 Said Act is further amended by revising Section 9 as follows:

6 "SECTION 9.

7 Revenue bonds; negotiability; exemption from taxation.

8 All revenue bonds or other obligations issued under the provisions of this Act shall have
9 and are declared to have all the qualities and incidents of negotiable instruments under the
10 laws of this state. Such bonds or other obligations, their transfer, and the income therefrom
11 shall be exempt from all taxation within this state."

12 **SECTION 7.**

13 Said Act is further amended by revising Section 10 as follows:

14 "SECTION 10.

15 Revenue bonds; sale; price; proceeds.

16 The authority may sell such bonds or other obligations in such manner and for such price
17 as it may determine to be for the best interest of the authority. The proceeds derived from
18 the sale of such bonds or other obligations shall be used solely for the purpose or purposes
19 provided in the resolutions and proceedings authorizing the issuance of such bonds or other
20 obligations."

21 **SECTION 8.**

22 Said Act is further amended by revising Section 11 as follows:

23 "SECTION 11.

24 Revenue bonds; interim receipts and certificates or temporary bonds.

25 Prior to the preparation of any definitive bonds or other obligations, the authority may,
26 under like restrictions, issue interim receipts, interim certificates, or temporary bonds or
27 other obligations, with or without coupons, exchangeable for definitive bonds or other
28 obligations upon the issuance of such bonds or other obligations."

SECTION 9.

Said Act is further amended by revising Section 12 as follows:

"SECTION 12.

Revenue bonds; replacement of lost or mutilated bonds.

The authority may provide for the replacement of any bonds or other obligations or coupons which shall become mutilated or be destroyed or lost.

SECTION 10.

Said Act is further amended by revising Section 13 as follows:

"SECTION 13.

Revenue bonds; conditions precedent to issuance.

Such revenue bonds or other obligations may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, and things which are specified or required by this Act. In the discretion of the authority, revenue bonds or other obligations of a single issue may be issued for the purpose of any particular project. Any resolution providing for the issuance of revenue bonds or other obligations under the provisions of this Act shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special meeting of the authority by a majority of its members."

SECTION 11.

Said Act is further amended by revising Section 14 as follows:

"SECTION 14.

Credit not pledged.

Revenue bonds or other obligations issued under the provisions of this Act shall not be deemed to constitute a debt of the City of Eastman or Dodge County nor a pledge of the faith and credit of said city or county; but such bonds or other obligations shall be payable solely from the fund hereinafter provided for and the issuance of such revenue bonds or other obligations shall not directly, indirectly, or contingently obligate said city or county to levy or to pledge any form of taxation whatever therefor or to make any appropriation

1 for their payment. All such bonds or other obligations shall contain recitals on their face
2 covering substantially the provisions of this section."

3 **SECTION 12.**

4 Said Act is further amended by revising Section 15 as follows:

5 "SECTION 15.

6 Trust indenture as security.

7 In the discretion of the authority, any issuance of such revenue bonds or other obligations
8 may be secured by a trust indenture by and between the authority and a corporate trustee,
9 which may be any trust company or bank having the powers of a trust company inside or
10 outside the state. Such trust indenture may pledge or assign fees, tolls, revenues, and
11 earnings to be received by the authority. Either the resolution providing for the issuance
12 of revenue bonds or other obligations or such trust indenture may contain such provisions
13 for protecting and enforcing the rights and remedies of the bondholders or those holding
14 any obligations as may be reasonable and proper and not in violation of law, including
15 covenants setting forth the duties of the authority in relation to the acquisition of property,
16 the construction of the project, the maintenance, operation, repair, and insuring of the
17 project, and the custody, safeguarding, and application of all moneys, and may also provide
18 that any project shall be constructed and paid for under the supervision and approval of
19 consulting engineers or architects employed or designated by the authority, and satisfactory
20 to the original purchasers of the bonds or other obligations issued therefor, and may also
21 require that the security given by contractors and by any depository of the proceeds of the
22 bonds or revenues or other moneys be satisfactory to such purchasers, and may also contain
23 provisions concerning the conditions, if any, upon which additional revenue bonds or other
24 obligations may be issued. It shall be lawful for any bank or trust company incorporated
25 under the laws of this state to act as such depository and to furnish such indemnifying
26 bonds or other obligations or pledge such securities as may be required by the authority.
27 Such indenture may set forth the rights and remedies of the bondholders or those holding
28 any obligations and of the trustee and may restrict the individual right of action of
29 bondholders or those holding any obligations as is customary in trust indentures securing
30 bonds or other obligations and debentures of corporations. In addition to the foregoing,
31 such trust indenture may contain such other provisions as the authority may deem
32 reasonable and proper for the security of the bondholders or those holding any obligations.
33 All expenses incurred in carrying out such trust indenture may be treated as a part of the
34 cost of maintenance, operation, and repair of the project affected by such indenture."

SECTION 13.

Said Act is further amended by revising Section 16 as follows:

"SECTION 16.

To whom proceeds of bonds shall be paid.

In the resolution providing for the issuance of revenue bonds or other obligations or in the trust indenture, the authority shall provide for the payment of the proceeds of the sale of the bonds or other obligations to any officer or person who, or any agency, bank, or trust company which, shall act as trustee of such funds and shall hold and apply the same to the purposes of this Act, subject to such regulations as this Act and such resolution or trust indenture may provide."

SECTION 14.

Said Act is further amended by revising Section 17 as follows:

"SECTION 17.

Sinking fund.

The revenues, fees, tolls, and earnings derived from any particular project or projects, regardless of whether or not such fees, earnings, and revenues were produced by a particular project for which bonds or other obligations have been issued, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds or other obligations of the authority as the resolution authorizing the issuance of the bonds or other obligations or the trust instrument may provide. Such funds so pledged from whatever source received, including funds received from one or more or all sources, shall be set aside at regular intervals as may be provided in the resolution or trust indenture into a sinking fund which shall be pledged to and charged with the payment of:

- (1) The interest upon such revenue bonds or other obligations as such interest shall fall due;
- (2) The principal of the bonds or other obligations as the same shall fall due;
- (3) The necessary charges of paying agents for paying principal and interest and other investment charges;
- (4) Any premium upon bonds or other obligations retired by call or purchase as provided in this Act; and

1 (5) Any investment fees or charges.

2 The use and disposition of such sinking fund shall be subject to such regulations as may
3 be provided in the resolution authorizing the issuance of the revenue bonds or other
4 obligations or in the trust indenture but, except as may otherwise be provided in such
5 resolution or trust indenture, such sinking fund shall be maintained as a trust account for
6 the benefit of all revenue bonds or other obligations without distinction or priority of one
7 over another. Subject to the provisions of the resolution authorizing the issuance of the
8 bonds or other obligations or the trust indenture, any surplus moneys in the sinking fund
9 may be applied to the purchase or redemption of bonds or other obligations, and any such
10 bonds or other obligations so purchased or redeemed shall forthwith be canceled and shall
11 not again be issued.

12 **SECTION 15.**

13 Said Act is further amended by revising Section 18 as follows:

14 "SECTION 18.

15 Remedies of holders of bonds or any other obligations..

16 Any holder of revenue bonds or other obligations issued under the provisions of this Act
17 or any of the coupons appertaining thereto and the trustee under the trust indenture, if any,
18 except to the extent the rights given in this Act may be restricted by resolution passed
19 before the issuance of the bonds or other obligations or by the trust indenture, may, either
20 at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce
21 any and all rights under the laws of this state or granted under this Act or under such
22 resolution or trust indenture and may enforce and compel performance of all duties
23 required by this Act or by such resolution or trust indenture to be performed by the
24 authority or any officer thereof, including the fixing, charging, and collecting of revenues,
25 fees, tolls, and other charges for the use of the facilities and services furnished."

26 **SECTION 16.**

27 Said Act is further amended by revising Section 19 as follows:

28 "SECTION 19.

29 Refunding bonds.

30 The authority is authorized to provide by resolution for the issuance of bonds or other
31 obligations of the authority for the purpose of funding or refunding any revenue bonds or

1 other obligations issued under the provisions of this Act and then outstanding, together
2 with accrued interest thereon and premium, if any. The issuance of such funding or
3 refunding bonds or other obligations, the maturities and all other details thereof, the rights
4 of the holders thereof, and the duties of the authority in respect to the same shall be
5 governed by the foregoing provisions of this Act insofar as the same may be applicable."

6 **SECTION 17.**

7 Said Act is further amended by revising Section 20 as follows:

8 "SECTION 20.

9 Validation.

10 Bonds, but not other obligations, of the authority shall be confirmed and validated in
11 accordance with the procedure of Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known
12 as the 'Revenue Bond Law.' The petition for validation shall also make party defendant to
13 such action the State of Georgia or any municipality, county, authority, political subdivision,
14 or instrumentality of the State of Georgia which has contracted with the authority for the
15 services and facilities of the project for which bonds are to be issued and sought to be
16 validated, and the state or such municipality, county, authority, political subdivision, or
17 instrumentality shall be required to show cause, if any exists, why such contract or contracts
18 and the terms and conditions thereof should not be inquired into by the court and the contract
19 or contracts adjudicated as a part of the basis for the security for the payment of any such
20 bonds of the authority. The bonds, when validated, and the judgment of validation shall be
21 final and conclusive with respect to such bonds, and the security for the payment thereof and
22 interest thereon and against the authority issuing the same and the state and any municipality,
23 county, authority, political subdivision, or instrumentality, if a party to the validation
24 proceedings, contracting with the Heart of Georgia Regional Airport Authority."

25 **SECTION 18.**

26 Said Act is further amended by revising Section 21 as follows:

27 "SECTION 21.

28 Venue and jurisdiction.

29 Any action to protect or enforce any rights under the provisions of this Act or any suit or
30 action against such authority shall be brought in the Superior Court of Dodge County,
31 Georgia; and any action pertaining to validation of any bonds or other obligations issued

under the provisions of this Act shall likewise be brought in said court which shall have exclusive, original jurisdiction of such actions."

SECTION 19.

Said Act is further amended by revising Section 22 as follows:

"SECTION 22.

Interest of holders of bonds and other obligations protected.

While any of the bonds or other obligations issued by the authority remain outstanding, the powers, duties, or existence of said authority or its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such bonds or other obligations. No other entity, department, agency, or authority will be created which will compete with the authority to such an extent as to affect adversely the interest and rights of the holders of such bonds or other obligations, nor will the state itself so compete with the authority. The provisions of this Act shall be for the benefit of the authority and the holders of any such bonds or other obligations, and, upon the issuance of bonds or other obligations under the provisions hereof, shall constitute a contract with the holders of such bonds or other obligations."

SECTION 20.

Said Act is further amended by revising Section 23 as follows:

"SECTION 23.

Moneys received considered trust funds.

All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of revenue bonds or other obligations, as grants or other contributions, or as revenue, income, fees, and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act."

SECTION 21.

Said Act is further amended by revising Section 25 as follows:

1 "SECTION 25.

2 Rates, charges, and revenues; use.

3 The authority is authorized to prescribe and fix rates and to revise the same from time to
4 time and to collect fees, tolls, and charges for the services, facilities, and commodities
5 furnished and, in anticipation of the collection of the revenues of such undertaking or
6 project, to issue revenue bonds or other obligations as herein provided to finance, in whole
7 or in part, the cost of the acquisition, construction, reconstruction, improvement,
8 betterment, or extension of any project and to pledge to the punctual payment of said bonds
9 or other obligations and interest thereon, all or any part of the revenues of such undertaking
10 or project, including the revenues of improvements, betterments, or extensions thereto
11 thereafter made.

12 **SECTION 22.**

13 Said Act is further amended by revising Section 28 as follows:

14 "SECTION 28.

15 Tax exemption.

16 It is found, determined, and declared that the creation of the authority and the carrying out
17 of its corporate purpose is in all respects for the benefit of the people of this state and that
18 the authority is an institution of purely public charity and will be performing an essential
19 governmental function in the exercise of the power conferred upon it by this Act, and this
20 state covenants with the holders of the bonds or other obligations that the authority shall
21 not be required to pay any taxes or assessments upon any of the property acquired or leased
22 by it or under its jurisdiction, control, possession, or supervision or upon its activities in the
23 operation or maintenance of the projects erected by it or any rates, fees, tolls, or other
24 charges for the use of such projects or other income received by the authority, and that the
25 bonds or other obligations of the authority, their transfer, and the income therefrom shall
26 at all times be exempt from taxation within this state. The exemption from taxation
27 provided for in this section shall not extend to tenants or lessees of the authority and shall
28 not include exemptions from sales and use taxes on property purchased by the authority or
29 for use by the authority."

30 **SECTION 23.**

31 All laws and parts of laws in conflict with this Act are repealed.